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Ernest Coombs, First Selectman
Jerome H. Suminsby, Planning Committee Chair
c/o Michael MacDonald, Town Manager
Town of Mount Desert
P.O. Box 248
Northeast Harbor, ME 04662

Dear Mssrs. Coombs and Suminsby,

Thank you for submitting the September 7, 2007 draft Town of Mount Desert Comprehensive Plan for review for consistency with the Maine Planning and Land Use Regulation Act (the Act). You and the entire committee are to be congratulated for all of the hard work that went into producing the Plan, and for your commitment to the time and money necessary complete it.

While we find most aspects of the Plan consistent with the goals and guidelines of the Comprehensive Plan Review Criteria Rule (Chapter 202) of the Act, there are areas that need additional work to reach an official finding of consistency. **Two specific inconsistencies** are listed below. In addition to the findings developed by this Office, we've attached review comments submitted to this Office by other state agencies.

The findings consist of four sections:

1. The first provides the State Planning Office's (SPO) general Conclusions about the Plan, indicating overall strengths and weaknesses.
2. The second section identifies Inconsistencies of the Plan and SPO's Recommendations for addressing them. Inconsistencies indicate those parts of the Plan that do not adequately address the goals in the Act. Recommendations provide one way, though certainly not the only way, the Town could modify the Plan to address the inconsistencies. Occasionally suggestions, that do not affect consistency, are included in this section. The Town need not follow these suggestions to address an inconsistency with the Act. See comment on Suggestions in the third section below.
3. The third section provides Suggestions for how the Town might modify the Plan or issues it might explore to improve or strengthen the Plan to better meet State and local goals. It is not necessary for the Town to respond to suggestions in order to be found consistent with the Act. Suggestions are simply offered as advice on how the Town could improve its Plan.
4. The fourth section identifies Other Agency Comments that have been received from State agencies, regional councils, or other interested parties (attached and printed on blue

paper). As with the Suggestions from our office, these are areas where the town might improve the plan or strengthen sections to address agency interests and goals.

SECTION I – CONCLUSIONS

The Comprehensive Planning Committee clearly gathered and considered a good deal of information, and the Plan is thoughtful, well organized and easy to read. The following elements are especially commendable:

- An informative and engaging narrative history of the town;
- Acknowledgement of the extent to housing has become unaffordable to most of the town's residents
- Clear understanding of the various ways that the affordable housing situation threatens the future of the town, including population demographics, transportation, local economy and the character of Mount Desert as a year-round community;
- A Future Land Use plan that provides for future growth through building on historical, village-oriented patterns of development and which provides broad continuity with already-established local land-use regulations;
- Recognition of value of inter-local and regional cooperation as a means to address issues that transcend town boundaries.

While the Plan is characterized by many strong elements, a number of issues need to be addressed to legitimize and strengthen certain areas of the plan, as well as to bring them into compliance with state review criteria. We have identified three specific areas where the Plan is inconsistent with the Planning and Land Use Regulation Act. These inconsistencies are described in Section II, below.

SECTION II - INCONSISTENCIES

Inconsistency #1: Affordable Housing

The Plan's Housing goals and policies do not meet minimum standards as called for in the Growth Management Act and the Comprehensive Plan Review Criteria Rule (Chapter 202). Specifically, the Act (Section 4326.3-A,G) states:

The municipality or multimunicipal region shall seek to achieve a level of at least 10% of new residential development, based on a 5-year historical average of residential development in the municipality or multimunicipal region, that meets the definition of affordable housing.

The Comprehensive Planning Criteria Rule (Chapter 202, Section 7.A.1) further qualifies this by requiring that:

“...implementation strategies must specify actions that the town will take to...seek to achieve that 10%, or whatever greater percentage the inventory and analysis identifies as necessary, of the new housing units constructed in the municipality in the 5 years after plan adoption will be affordable housing.

Recommendation:

Refine and supplement the housing policies by including of a re-statement of the Rule requirement, such as:

The Town shall seek to meet the state requirement that 10%, or whatever greater percentage the inventory and analysis identifies as necessary, of the new housing units constructed in the municipality in the 5 years after plan adoption will be affordable housing.

Alternatively, inclusion of the following policy statement would also sufficiently address this inconsistency:

The Town shall seek to meet the state requirements for addressing the affordable housing need in Kennebunk in the next decade and to encourage and support the efforts of the Kennebunk Affordable Housing Committee in addressing this goal.

Inconsistency #2: Water Resources

The Plan does not meet minimum standards in the inventory and analysis sections for Water Resources as defined by the Comprehensive Plan Review Criteria Rule (Chapter 202). Specifically, the Rule states the plan must:

identify and profile the municipality's significant water resources in terms of their characteristics, uses, quantity, and quality; (Me State Planning Office, 07 105 CMR 202-3.C.8.a)

As noted in the attached comments from the Department of Environmental Protection and from the Department of Inland Fisheries and Wildlife, there are gaps in the identification of freshwater resources, some of which include significant fisheries.

Recommendation:

Revise the Surface Waters inventory to include available descriptive and water quality information found in the attached MDEP data table and also found under the hearing “Environment – Inland Resources” in the attached MIF&W Fisheries staff comments, dated 11/27/07. The integration of this information into the draft will sufficiently address this inconsistency.

SECTION III – SUGGESTIONS

Although not necessary to make the Plan consistent with the Act, some constructive comments that would help strengthen your Plan are outlined below. Please let me know if you would like any additional information or suggestions.

1. We suggest the Committee revise the Surface Water section to incorporate additional changes (not already cited above in Section II) found in attached comments from

MDEP's Greg Bean, dated 12/4/07 and the attached MIF&W Fisheries staff comments, dated 11/27/07 .

2. We suggest the Committee revise the Critical Natural Resources section and map to incorporate recommendations found in the attached comments from MIF&W's Bethany Atkins, dated 12/7/07.
3. As noted in the attached comments from Christopher Martin of the Maine Forest Service, there is no discussion of street trees or shade trees as part of the town infrastructure. The Forest Service offers technical assistance and cost-sharing grants to towns on a competitive basis. Mount Desert's prospects for receiving such a grant will be enhanced if the plan and its implementation strategies speak to the town's desire to develop or augment a public tree planning and maintenance program.

SECTION IV – COMMENTS FROM OTHER STATE AGENCIES

The following agencies reviewed and provided comments on your Plan:

- Maine Department of Environmental Protection (Greg Beane and Water Quality Table)
- Maine Department of Inland Fisheries and Wildlife (Bethany Atkins and Fisheries Staff)
- Maine Historic Preservation Commission
- Maine Department of Community and Economic Development
- Maine Department of Transportation
- Maine Forest Service

These comments, which are attached (blue sheets), provide additional detail and other suggestions that you might find useful as you complete your final draft. While the State Planning Office agrees that inclusion of these suggestions would improve the plan, only those items specifically cited above in Section II as inconsistencies must be addressed in order to have the plan found to be consistent with the Act.

In closing, thank you again for submitting this plan for review and for all of your hard work so far. Again, I wish to congratulate the Committee for its work on producing a very strong plan for Mount Desert. Hopefully, you will find resolution of the inconsistencies to be a fairly straightforward process..

If I can be of assistance in any way, please contact me (287-3860 or phil.carey@maine.gov). I would be happy to work with the Committee to address any questions you might have.

Best regards,

Phil Carey
Senior Planner

cc: Tom Martin, Hancock County Council of Governments
Stacy Benjamin, State Planning Office, Land Use Program Director